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**SENATE BILL 5694**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Hunt, Saldaña, and C. Wilson

AN ACT Relating to public employee salary surveys; amending RCW 41.06.152, 41.06.157, and 41.80.020; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that the state is in an ongoing staffing crisis; that many state agencies are unable to fill positions required to do the work that the people of the state of Washington have asked them to perform; and that many state jobs pay far behind what the state considers to be fair market value according to the state's biennial salary survey, especially those jobs filled largely by women and people of color.

(2)(a) The legislature further finds that the state salary survey is a tool that is underutilized in the collective bargaining process.

(b) The state salary survey is conducted by the office of financial management every two years, as permitted under RCW 41.06.157. The state salary survey consistently shows many job classifications far behind fair market value, as determined by the survey itself. The office of financial management does not use the disparity between state salaries and fair market value to determine whether to grant a targeted pay increase to a given job classification.

(c) The office of financial management is currently not required to accept input from state employees in creating the salary survey or the job classification specifications used in determining which positions to use to compare to state service jobs. The result is often inaccurate benchmarks leading to comparatives which are unrepresentative of the full scale of the requirements of classification.

(3) The legislature intends to improve the state salary survey as a tool during collective bargaining by:

(a) Giving state employees a role in crafting the job classification specifications that are used to determine fair market value of the work that state employees are doing; and

(b) Allowing the office of financial management greater flexibility in using the state salary survey in collective bargaining and when determining which state job classifications will receive targeted pay increases.

**Sec.**  RCW 41.06.152 and 2011 1st sp.s. c 43 s 410 are each amended to read as follows:

(1) The director shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.157 that:

(a) As defined by the director, are due to documented recruitment or retention difficulties, salary compression or inversion, classification plan maintenance, higher level duties and responsibilities, inequities documented in salary survey data showing specific job classifications that are significantly behind market rate, or other inequities; and

(b) Are such that the office of financial management has reviewed the affected agency's fiscal impact statement and has concurred that the affected agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.157 that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

**Sec.**  RCW 41.06.157 and 2015 3rd sp.s. c 1 s 315 are each amended to read as follows:

(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:

(a) Be simple and streamlined;

(b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;

(c) Value workplace diversity;

(d) Facilitate the reorganization and decentralization of governmental services;

(e) Enhance mobility and career advancement opportunities; and

(f) Consider rates in other public employment and private employment in the state.

(2) Beginning January 1, 2024, the director may not adopt any classification plan unless the plan has been negotiated with the appropriate employee organization representing classified employees.

(3) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the director of financial management to initiate a classification study.

((~~(3)~~)) (4) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar nature in the state or the locality in which the institution of higher education or related board is located.

((~~(4)~~)) (5) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**Sec.**  RCW 41.80.020 and 2021 c 13 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of financial management, the director of enterprise services, or the Washington personnel resources board adopted under RCW 41.06.157.

(3)(a) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4). For agreements covering the 2013‑2015 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

(b) Beginning January 1, 2024, matters subject to bargaining include the benchmark descriptions and job classifications that will be used by the office of financial management in conducting salary surveys. Negotiations shall be conducted between the employer and one coalition of all bargaining representatives representing specific classifications.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

(8) RCW 41.58.070 applies to uniformed personnel.

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